

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District United States District of Massachusetts
Name of Movant Dereck Jackson	Prisoner No. 24039-038	Case No. 01CR10465001RCL
Place of Confinement U.S.P.- P.O. Box 1000, Lewisburg, PA 17837		
UNITED STATES OF AMERICA		v. 04 - 12401 RCL Dereck Jackson (name under which convicted)

MOTION MAGISTRATE JUDGE John Joseph Moakley

1. Name and location of court which entered the judgment of conviction under attack John Joseph Moakley
U.S. Courthouse, One Courthouse Way, Boston, MA 02210
2. Date of judgment of conviction 10/27/2003
3. Length of sentence 172 month(s)
4. Nature of offense involved (all counts) Bank Robbery (1) count 9/1/2001, Bank Robbery
(2) count 10/13/2001
5. What was your plea? (Check one)
 - (a) Not guilty ☐
 - (b) Guilty ☒
 - (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:
Pleaded guilty to both case's.
6. If you pleaded not guilty, what kind of trial did you have? (Check one)
 - (a) Jury ☐
 - (b) Judge only ☐
7. Did you testify at the trial?
Yes ☐ No ☒
8. Did you appeal from the judgment of conviction?
Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court N/A

(b) Result N/A

(c) Date of result N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

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(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒

(2) Second petition, etc. Yes ☐ No ☒

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

I have no knowledge on how to file any petition, application or
motion properly in a legal understanding.

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: That my rights under the Sixth Amend. to the U.S.
Constitution were violated.

Supporting FACTS (state *briefly* without citing cases or law): By application of the
Sentencing Guidelines and/or by judicial findings of fact
neither found by a jury nor admitted by me at my plea hearing.

B. Ground two: That my rights under the Sixth Amend. to the U.S.
Constitution were violated.

Supporting FACTS (state *briefly* without citing cases or law): By the enhancement of my
sentence based upon my prior convictions when neither the
fact of my prior convictions nor any other related facts
were ever found by a jury nor admitted by me during my plea
hearing.

C. Ground three: Is that I received ineffective assistance of
counsel.

Supporting FACTS (state *briefly* without citing cases or law): Because my lawyer failed
to object to the judicial factfinding in violation of the
Sixth Amend. to the Constitution and failed to object to a
sentence based upon facts neither found by a jury nor admitted
by me at my plea hearing.

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D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: My best answer at this time would

be N/A

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein: Federal Defender Office. District of Massachusetts 408 Atlantic Avenue, 3rd Floor Boston, MA 02110. (Attorney) Leo Sorokin.

(a) At preliminary hearing Leo Sorokin

(b) At arraignment and plea Leo Sorokin

(c) At trial N/A

(d) At sentencing Leo Sorokin

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REV 6/82(e) On appeal N/A(f) In any post-conviction proceeding N/A(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

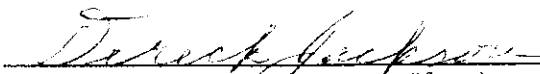
17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒(a) If so, give name and location of court which imposed sentence to be served in the future: N/A(b) Give date and length of the above sentence: N/A


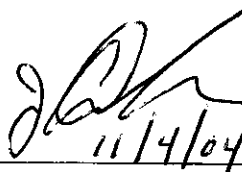
(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.


Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

(date)
Signature of MovantJ. DUNKLEBERGER, CASE MANAGER
AUTHORIZED BY ACT OF JULY 7,
1955, TO ADMINISTER OATHS
11/4/04